

### **REMARKS**

Claims 1-10 and 12-34 are pending in this application. Claims 4, 6-8, 10, and 14-28 are withdrawn.

Claims 1-33 are herein cancelled. Claims 35-39 are herein added.

Claims 34 is amended to recite that the immunogenic recombinant antibody includes at least a part of the murine IgG2a subtype amino acid sequence.

New claims 35-37 are added. Support for claim 35 is found in the Sequence Listing and in the description of Figures 6-9 (Substitute Specification, page 1, lines 28-33, Specification as Filed, beginning at page 19, line 38) describing that the sequences are the gamma and kappa chains of the claimed antibody.

Additionally, support for the term “at least a part of the murine IgG2a subtype amino acid sequence” included in the antibody or antibody fragment is found in the Substitute Specification at page 9, lines 7-10, and page 18, lines 35-38. (This section was not amended in the Substitute Specification).

Support for “produced in CHO” is supported in the Substitute Specification at page 23, line 20, the terms were not amended from the Specification as filed.

No new matter has been added.

### **35 U.S.C. §112 Enablement**

The Examiner rejects claims 1-3, 5, 9, 12, 13, and 29-32 under 35 U.S.C. § 112 as not being enabled.

As a preliminary matter, Applicants note that claims 1-33 have been cancelled. Accordingly, the rejection is moot. Applicants request that the rejection be withdrawn.

**Rejections Under 35 U.S.C. § 112, Written Description**

The Examiner rejects claims 1-3, 5, 9, 12, 13, and 29-32 under 35 U.S.C. § 112, as not being supported by sufficient written description. As a preliminary matter, Applicants note that claims 1-33 have been cancelled.

Accordingly, the rejection is moot. Applicants request that the rejection be withdrawn.

**Rejections Under 35 U.S.C. § 103**

The Examiner rejects claim 34 under 35 U.S.C. § 103 as being unpatentable over Debe et al. (U.S.A.N. 09/791,537). Applicants submit that Debe is not available as prior art against this application.

Specifically, it is unclear that Debe ever published. According to the Examiner, Debe '537 was filed on February 22, 2001. However, Debe is unavailable from PAIR, and is also unavailable via the patent office's search for published applications. Presumably, since Debe '537 was ostensibly filed after 1996, it should have published as a matter of course 18 months from the February 2001 date, unless it was abandoned or subject to a secrecy order. Furthermore, a general search of the Patent Application Full Text and Image Database with the application number does not lead to any published applications referring to the Debe '537 application. Accordingly, Applicants submit that Debe is unavailable as prior art under 35 U.S.C. § 102 a, b, or e. Since Debe is unavailable as prior art under 35 U.S.C. § 102, it is also unavailable as prior art under 35 U.S.C. § 103. Therefore, Applicants request that the rejection be withdrawn.

**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Application No. 10/552,324  
Amendment dated January 19, 2010  
Reply to Office Action of September 18, 2010

Docket No.: 4518-0111PUS1

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: January 19, 2010

Respectfully submitted,

By 

Leonard R. Svensson

Registration No.: 30,330

BIRCH, STEWART, KOLASCH & BIRCH, LLP

12770 High Bluff Drive

Suite 260

San Diego, California 92130

(858) 792-8855

Attorney for Applicant